

Department of Justice

§ 2.8

§ 2.5 Sentence aggregation.

When multiple sentences are aggregated by the Bureau of Prisons pursuant to 18 U.S.C. 4161 and 4205, such sentences are treated as a single aggregate sentence for the purpose of every action taken by the Commission pursuant to these rules, and the prisoner has a single parole eligibility date as determined by the Bureau of Prisons.

[45 FR 44925, July 2, 1980]

§ 2.6 Withheld and forfeited good time.

While neither a forfeiture of good time nor a withholding of good time shall bar a prisoner from receiving a parole hearing, section 4206 of title 18 of the U.S. Code permits the Commission to parole only those prisoners who have substantially observed the rules of the institution.

[43 FR 38822, Aug. 31, 1978]

§ 2.7 Committed fines and restitution orders.

(a) *Committed fines.* In any case in which a prisoner shall have had a fine imposed upon him by the committing court for which he is to stand committed until it is paid or until he is otherwise discharged according to law, such prisoner shall not be released on parole or mandatory release until payment of the fine, or until the fine commitment order is discharged according to law under the regulations of the Bureau of Prisons. Discharge from the commitment obligation of any committed fine does not discharge the prisoner's obligation to pay the fine as a debt due the United States.

(b) *Restitution orders.* Where a prisoner applying for parole is under an order of restitution, and it appears that the prisoner has the ability to pay and has willfully failed to do so, the Commission shall require that approval of a parole release plan be contingent upon the prisoner first satisfying such restitution order. The prisoner shall be notified that failure to satisfy this condition shall result in retardation of parole under the provisions of § 2.28(e).

[48 FR 44527, Sept. 29, 1983, as amended at 50 FR 36422, Sept. 6, 1985]

§ 2.8 Mental competency proceedings.

(a) Whenever a prisoner (or parolee) is scheduled for a hearing in accordance with the provisions of this part and reasonable doubt exists as to his mental competency, i.e., his ability to understand the nature of and participate in scheduled proceedings, a preliminary inquiry to determine his mental competency shall be conducted by the hearing panel, hearing examiner or other official (including a U.S. Probation Officer) designated by the Regional Commissioner.

(b) The hearing examiner(s) or designated official shall receive oral or written psychiatric or psychological testimony and other evidence that may be available. A preliminary determination of mental competency shall be made upon the testimony, evidence, and personal observation of the prisoner (or parolee). If the examiner(s) or designated official determines that the prisoner is mentally competent, the previously scheduled hearing shall be held. If they determine that the prisoner is not mentally competent, the previously scheduled hearing shall be temporarily postponed.

(c) Whenever the hearing examiner(s) or designated official determine that a prisoner is mentally incompetent and postpone the previously scheduled hearing, they shall forward the record of the preliminary hearing with their findings to the Regional Commissioner for review.

(1) In the case of a prisoner, if the Regional Commissioner concurs with their findings, the Commissioner shall order the temporarily postponed hearing to be postponed indefinitely until such time as it is determined that the prisoner has recovered sufficiently to understand the proceedings. The Regional Commissioner shall require a progress report on the mental health of the prisoner at least every six months. When the Regional Commissioner determines that the prisoner has recovered sufficiently, the Commissioner shall reschedule the hearing for the earliest feasible date.

(2) In the case of a parolee in a revocation proceeding, the Regional Commissioner shall postpone the revocation hearing and order that the parolee be given a mental health examination